Order Code RS21386
Updated July 26, 2004

Tax Activity in the 108th Congress: An Overview

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Summary

This report provides an overview of federal tax proposals considered, including those approved, by the 108th Congress to date. Thus far in this Congress, four proposals have been enacted. H.R. 2, the Jobs and Growth Tax Relief and Reconciliation Act (JGTRRA) was signed into law (P.L. 108-27) in May 2003; tax reductions for armed services personnel (H.R. 1307, H.R. 1664, H.R. 878, S. 351, H.R. 3365) became law, P.L. 108-121; the Medicare Prescription Drug and Modernization Act (H.R. 1, H.R. 2596, H.R. 2351) became law, P.L. 108-173; the Social Security Protection Act of 2003 (H.R. 743) was signed into law (P.L. 108-203) in March 2004; and the Pension Fund Equity Act (H.R. 3108) became law, P.L. 108-218.

Other targeted proposals discussed in this report include tax incentives for charitable giving (H.R. 7, S. 476), child tax credit (H.R. 1308, H.R. 4359), energy (H.R. 6, S. 1149), estate tax repeal (H.R. 8), expiring tax provisions, (H.R. 3521, S. 1896, H.R. 4181, H.R. 4227, H.R. 4275, H.R. 4520), export provisions and related taxation of corporations (H.R. 1769, H.R. 2896, H.R. 4520, S. 970, S. 1475, S. 1637, S. 1688), Internet taxation (H.R. 49, S. 150, S. 2084), and tax simplification (H.R. 4840, H.R. 4841).

This report will be regularly updated to reflect legislative developments.

The Jobs and Growth Tax Relief Reconciliation Act

On May 23, 2003, the House and Senate agreed to the conference report for H.R. 2, the Jobs and Growth Tax Relief Reconciliation Act (JGTRRA), and on May 28, the President signed the bill into law as P.L. 108-27. The Joint Committee on Taxation (JCT) estimated the package will result in $350 billion in reduced revenues (and increased outlays) from FY2003 through FY2013 .[1] In contrast to the Senate-passed version, which

[1] U.S. Congress, Joint Committee on Taxation estimates posted on the Joint Committee on Taxation's website at [http://www.house.gov/jct/x-15-03.pdf]. All estimated revenue impacts

would have had the same net cost, the final bill did not include revenue raising measures, or "offsets." Further, the total cost is significantly less than the initial package of $726 billion proposed by the President.[2] The principal tax provisions include acceleration of individual income tax rate reductions, a temporary expansion of the 10% individual income tax bracket, a temporary acceleration in marriage tax relief provisions, a temporary increase in the child tax credit from $600 to $1,000, a temporary increase in the alternative minimum tax exemption amounts, an increase in the "bonus" depreciation allowance, a temporary increase in small business allowable expensing, and a temporary reduction in individual capital gains and dividend taxes through 2008.

Taxation of Armed Forces Personnel

Several proposals to provide military tax relief, S. 351, H.R. 878, H.R. 1307, H.R. 1664, and H.R. 3365 were introduced this year, and one of them, H.R. 3365, became public law (P.L. 108-121) on November 11. The Military Family Tax Relief Act, H.R. 3365, was introduced (Renzi) on October 21, 2003, passed the House on October 29, and passed the Senate on November 3. The bill proposed to increase the military death gratuity payment from $6,000 to $12,000 and make such payments fully tax-free and was estimated to cost $122 million between fiscal years 2004 and 2013. It was subsequently amended to include other tax benefit provisions, including a time extension to ten years, from five, on the exclusion of gain on the sale of a principal residence by a member of the uniformed services or the foreign service. These provisions were similar to those contained in the House and the Senate passed versions of the Armed Forces Tax Fairness Act, H.R. 1307, as well as H.R. 1664, H.R. 878, and S. 351.

Medicare Prescription Drug and Modernization Act

On June 25, two health care bills, H.R. 2596, the Health Savings and Affordability Act, and H.R. 1, the Medicare Prescription Drug and Modernization Act, were introduced in the House and passed that same week. H.R. 2596, similar to an earlier bill, H.R. 2351, provides for health savings accounts and flexible spending arrangements with an estimated cost at $173.6 billion over 10 years. In passing H.R. 2596, the House agreed to append it to H.R. 1. A Senate bill, S. 1, introduced earlier in June and passed that same month, was incorporated into H.R. 1 in July as an amendment. The Senate passed H.R. 1 in lieu of its own measure on July 7.

H.R. 1 provides tax breaks to keep private employers from eliminating retirees' prescription drug coverage, creates health savings accounts and makes them a permanent feature fo the tax code, and calls for Medicare to pay companies with retiree health plans 28 cents for every dollar spent on drug benefits from $250 to $5,000, provided the health plan is certified to be at least the equivalent of the standard Medicare drug plan. After having been in conference since September 17, the conference report, H.Rept. 108-391, was agreed to in the House on November 22 and in the Senate on November 25. On December 8, 2003, the legislation was signed into law, P.L. 108-173.

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in this report are those prepared by the staff of the JCT.

[2] For a more extensive discussion, see CRS Report RL31907, *Tax Cut Bills in 2003: A Comparison*, by David L. Brumbaugh and Don C. Richards.

Social Security Protection Act of 2003

H.R. 743, the Social Security Protection Act providing additional safeguards for Social Security and Supplemental Security Income beneficiaries, was introduced in February 2003; it passed the House in April, the Senate in December, and was signed into law (P.L. 108-203) on March 2, 2004. Among its many provisions, H.R. 743 requires the Social Security Administration to reissue benefits when a "representative payee" misuses funds. Representative payees are surrogates appointed by the Social Security Administration to manage the financial affairs of beneficiaries who are unable to do so for themselves. With nearly 7 million beneficiaries represented by surrogates, the bill imposes more rigorous eligibility requirements and institutes stricter scrutiny on the representatives, while imposing more severe penalties on individuals who abuse the system.

The new law also includes provisions preventing state government workers, many of whom do not pay into the Social Security system, from qualifying for larger Social Security survivor benefits when a spouse dies. Under prior law, a state employee could work in a Social Security covered position for as little as one day and become entitled to higher Social Security benefits. The enactment changes the eligibility rule to require a surviving spouse to work in a Social Security covered job for at least five years to qualify for the higher benefits.

H.R. 743 prohibits payments to illegal immigrants and felons except in certain circumstances. Illegal immigrants are not allowed to collect Social Security benefits for the time they worked in the country illegally unless they are later granted legal status. The enactment denies benefits to fugitive felons and parole and probation violators, although administrators have some flexibility in considering payments to felons guilty of minor offenses.

Pension Fund Equity Act of 2003

H.R. 3108, the Pension Fund Equity Act, was introduced in September 2003 to adjust the interest rate used to determine required pension contributions. A provision addressing that issue expired at the end of 2003. The new law temporarily replaces the 30-year Treasury rate with a rate based on long-term corporate bonds. H.R. 3108 passed the House in October and the Senate in January 2004. Conferees for H.R. 3108 were appointed the week of March 1; their report, H.Rept. 108-457, was filed on April 1, 2004, and approved by the House on April 2. After approval in the Senate on April 8, the measure was signed into law, P.L. 108-218, on April 10.

The Joint Committee on Taxation estimated[3] that the interest rate replacement would postpone about $96 billion in corporate contributions to pension plans in 2004 and 2005. This reduction in pension contributions, which corporations can deduct from their income taxes, would add $9 billion in revenue for the federal government.

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[3] U.S. Congress, Joint Committee on Taxation estimates posted on the Joint Committee on Taxation's website: [http://www.house.gov/jct/x-28-04.pdf].

Targeted Tax Proposals

Several targeted proposals have been introduced in the 108th Congress. Some propose to accelerate, freeze, or make permanent the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA; P.L. 107-16), the multi-year 2001 tax cut. This act was passed with a sunset provision because there were not enough votes to set aside a budget rule.

Charitable Contributions. On April 9, 2003, the Senate approved the CARE Act, S. 476, which is intended to provide tax subsidies for charitable giving, improve the public disclosure of activities of exempt organizations, and enhance the ability of low-income Americans to gain financial security by building assets. The bill includes $12.3 billion in decreased tax revenue but raises $13 billion over 10 years by curbing corporate tax shelters. A similar bill, H.R. 7, the Charitable Giving Act, was introduced in the House in June 2003 and passed on September 17, 2003. H.R. 7, which was referred to the Senate Committee on Finance on December 9, contains provisions for charitable contribution deductions for non-itemizers, tax-free distributions from IRAs for charitable purposes, and an increase in the corporate charitable contributions cap.

Child Tax Credit. H.R. 1308, the Relief for Working Families Tax Act, which passed in the House in March 2003 and the Senate in June, was scheduled for conference to resolve differences in November. The proposals in H.R. 1308 include making the $1,000 credit amount permanent; accelerating the refundability to a 15% rate, effective in 2003 instead of 2005; and, beginning in 2008, increasing the income phase-out threshold for joint filers from $110,000 to $155,000 in 2008 and 2009 and then to $150,000 beginning in 2010.

H.R. 4359, the Child Credit Preservation and Expansion Act, was introduced on May 13, 2004, and passed the House on May 20. H.R. 4359 also proposes to make the $1,000 credit amount permanent and proposes to increase the income thresholds for single filers from $75,000 to $125,000 (from $110,000 to $250,000 for married filers). Both H.R. 4359 and H.R. 1308 propose to include combat pay, which is otherwise excludable from gross income, as earned income for the purpose of determining the child tax credit refundability. JCT estimates a revenue loss of $81 billion for H.R. 1308 and $227 billion for H.R. 4359.

Energy Taxation. Both the House and the Senate have approved energy taxation measures that are currently in conference: H.R. 6, which provides $18.6 billion in net tax relief, passed the House on April 11, and the Senate version, which provides $15.5 billion, passed on July 31. This measure includes several energy tax cuts including tax credits for producers and consumers of energy. The conference report, H.Rept. 108-375, was agreed to in the House on November 18 and considered in the Senate that same week. Senate Energy Committee Chair Domenici introduced S. 2095 in February 2004 as a new, smaller energy policy act containing more than 50 tax provisions that parallel items in the conference report to H.R. 6.

Estate Tax Repeal. The House approved H.R. 8 introduced by Representative Dunn, on June 18. It proposes to make permanent the repeal of the estate tax, currently scheduled to expire after 2010.

Expiring Temporary Tax Provisions. On November 19, 2003, Senate bill S. 1896 and House bill H.R. 3521 were introduced to amend the Internal Revenue Code by providing extensions for certain expiring temporary provisions, also known as "extenders." H.R. 3521, projected to cost $7.4 billion in tax revenue loss, passed the House on November 20 and was referred to the Senate Committee on Finance on December 9. S. 1896, with a $1.2 billion projected revenue loss, was referred to the Senate Committee on Finance. H.R. 4520, which passed the House in June 2004, and S. 1637, which passed the Senate in May 2004, were both introduced to address other tax policy issues but also include proposals to extend certain expiring provisions.

H.R. 4181, introduced on April 21, 2004, would permanently extend tax relief for married couples. The bill proposes to make permanent both the expansion of the 15% income bracket for married taxpayers filing joint returns and the increase in the standard deduction to an amount twice that provided to single filers. Both provisions had been enacted under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA). The House passed H.R. 4181, which is estimated to cost $104.7 billion over 10 years, on April 28, 2004.

H.R. 4227, introduced on April 28, 2004, proposes to extend to 2005 the alternative minimum tax (AMT) relief available in 2003 and 2004 and to index that relief for inflation. The JCT estimates that H.R. 4227, which passed the House on May 5, would cost over $17 billion in lost revenue through 2014.

H.R. 4275 was introduced on May 5, 2004, and passed the House on May 13. The bill proposes to permanently extend the 10% individual income tax rate bracket and allow for an inflation adjustment to the income limit amounts for the bracket. The JCT estimate for revenue losses associated with H.R. 4275 is $218 billion over the next 10 years.

Export Provisions and Corporate Taxes. In response to the need to eliminate export provisions that have been deemed violative of trade agreements by the World Trade Organization, legislation has been introduced in the House, H.R. 1769 (Crane and Rangel), H.R. 2896 and H.R. 4520 (Thomas); and in the Senate, S. 970 (Hollings), S. 1475 (Hatch), S. 1637 (Grassley and Baucus), and S. 1688 (Rockefeller). The action was taken in anticipation of the $4 billion in trade sanctions against U.S. imports, authorized by the WTO and made effective beginning March 1. Five percent of the $4 billion was imposed on March 1 with a 1 percentage point increase every month for one year.

H.R. 2896, introduced in July 2003, was reported from the House Ways and Means Committee and prepared for the House floor on November 21. H.R. 2896, which was similar to S. 1475, would cut corporate taxes by $140 billion over ten years and included $80 billion in offsetting revenue increases. H.R. 1769, which would provide $126 billion in domestic manufacturing tax benefits, was introduced in April 2003 and referred to the House Committee on Ways and Means. In February 2004, House Committee on Ways and Means Ranking Democrat Charles Rangel launched a discharge petition to force a vote on H.R. 1769 as an alternative to H.R. 2896.

S. 1637 is the only Senate bill to have passed the committee (October) and be reported to the Senate floor (November). S. 1637 was proposed as a measure to replace foreign sales corporation/extraterritorial income taxes (FSC/ETI) with tax cuts for manufacturing and other international tax relief and contains nearly $55 billion in tax cuts and revenue offsets of $62 billion. The Senate passed S. 1637 on May 11.

H.R. 4520, introduced and passed in the House in June 2004, proposes to repeal FSC-ETI over three years with 100% of the benefit provided in 2004 and then falling to 0% in 2007; the bill provides $13 billion of transition relief. In comparison, S. 1637 repeals FSC-ETI over three years with 80% of base-year benefit provided in 2004 and then falling to 0% in 2007; the bill provides $9 billion of transition relief.

Internet Access. In January 2003, the Internet Tax Freedom Act, H.R. 49, was introduced to permanently extend the existing moratorium on the taxation of Internet access, ban the multiple or discriminatory taxation of Internet commerce, and preclude state and local governments from levying existing sales and use taxes on Internet access services. On September 17, 2003, this act passed the House and was then received in the Senate the next day. S. 150, which is identical to H.R. 49 and also introduced in January, was referred to the Committee on Commerce, Science, and Transportation in July 2003, then referred to the Senate Committee on Finance, where it was discharged on October 29 and passed by the Senate on April 29, 2004.

The Internet Tax Ban Extension and Improvement Act, S. 2084, introduced in February 2004, proposes a two-year extension of the moratorium on Internet taxation. S. 2084, like S. 150, is intended to prohibit taxes on certain telecommunications transactions — such as high-speed, direct-subscriber-line (DSL) Internet access — currently subject to taxes. S. 2084, however, would allow states and localities to tax certain business-to-business transactions that occur during the delivery of DSL services, while S. 150 would exempt all forms of technology used to provide Internet access.

Tax Simplification. On July 21, the House passed two bills, H.R. 4840 and H.R. 4841, designed to simplify the tax code. H.R. 4840, the Tax Simplification for America's Job Creators Act, proposes to simplify certain tax rules for businesses and includes a two-year extension of Section 179 expensing for small business, a change in accounting rules for certain taxpayers, and the removal of several inoperative corporate tax provisions in the Internal Revenue Code. H.R. 4841, the Tax Simplification for Americans Act, proposes to simplify certain tax rules for individuals, including the expanded availability of the 1040EZ and 1040A income tax filing forms, a change in head of household filing status to single head of household, and the removal of several inoperative individual income tax provisions.